

AMENDED IN ASSEMBLY AUGUST 24, 2009

AMENDED IN ASSEMBLY JULY 23, 2009

AMENDED IN ASSEMBLY JUNE 30, 2009

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AMENDED IN SENATE MAY 13, 2009

AMENDED IN SENATE APRIL 21, 2009

AMENDED IN SENATE APRIL 13, 2009

AMENDED IN SENATE MARCH 24, 2009

SENATE BILL

No. 175

Introduced by Senator Aanestad

February 14, 2009

An act to amend Sections 12070, 12072, 12078, and 12083 of the Penal Code, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

SB 175, as amended, Aanestad. Firearms.

Existing law, subject to exceptions, provides that no person shall sell, lease, or transfer firearms unless that person is licensed, as specified.

This bill would add exceptions to these provisions for the exchange of a firearm to or from a gunsmith for purposes of service or repair, and would exempt from these provisions, the delivery, sale, return, or transfer of certain firearms by persons holding certain permits, as specified.

Existing law provides that no person shall make an application to purchase more than one handgun within any 30-day period. Existing law also exempts various entities from this restriction.

This bill would add to the list of exempted entities community colleges that are certified by the Commission on Peace Officer Standards and Training to present the law enforcement academy basic course or other commission-certified law enforcement training.

Existing law provides that, commencing July 1, 2008, a person who is a federally licensed firearms dealer may not deliver, sell, or transfer a firearm to a person in California who is a federally licensed firearms dealer unless, prior to delivery, the person intending to deliver, sell, or transfer the firearm obtains a verification number via the Internet for the intended delivery, sale, or transfer, from the Department of Justice. One provision of law exempts from these verification number requirements any delivery, sale, or transfer of a short-barreled rifle, short-barreled shotgun, machinegun, or an assault weapon, as specified, while an alternate provision exempts from these verification number requirements only the lawful delivery, sale, or transfer of these weapons, as specified.

The bill would delete these exemptions from the verification number requirements. This bill would create additional exemptions from the verification requirement for certain other firearms transactions.

Existing law requires the Department of Justice to maintain a centralized list of federal firearms licensees, as specified. Existing law authorizes the department to assess an annual fee on those licensees listed on that centralized list.

This bill would remove persons identifying themselves as ~~Federally~~ *federally* licensed pawnbrokers from those required to be included in the centralized list, and would exempt persons possessing specified permits who are on the centralized list from the fee assessment.

This bill would incorporate additional changes to Section 12078 of the Penal Code proposed by SB 41, to become operative if this bill is enacted after SB 41.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 12070 of the Penal Code is amended to
2 read:

1 12070. (a) No person shall sell, lease, or transfer firearms
2 unless he or she has been issued a license pursuant to Section
3 12071. Any person violating this section is guilty of a
4 misdemeanor.

5 (b) Subdivision (a) does not apply to any of the following:

6 (1) The sale, lease, or transfer of any firearm by a person acting
7 pursuant to operation of law, a court order, or pursuant to the
8 Enforcement of Judgments Law (Title 9 (commencing with Section
9 680.010) of Part 2 of the Code of Civil Procedure), or by a person
10 who liquidates a personal firearm collection to satisfy a court
11 judgment.

12 (2) A person acting pursuant to subdivision (e) of Section
13 186.22a or subdivision (c) of Section 12028.

14 (3) The sale, lease, or transfer of a firearm by a person who
15 obtains title to the firearm by intestate succession or by bequest
16 or as a surviving spouse pursuant to Chapter 1 (commencing with
17 Section 13500) of Part 2 of Division 8 of the Probate Code,
18 provided the person disposes of the firearm within 60 days of
19 receipt of the firearm.

20 (4) The infrequent sale, lease, or transfer of firearms.

21 (5) The sale, lease, or transfer of used firearms other than
22 handguns, at gun shows or events, as specified in Section 12071,
23 by a person other than a licensee or dealer, provided the person
24 has a valid federal firearms license and a current certificate of
25 eligibility issued by the Department of Justice, as specified in
26 Section 12071, and provided all the sales, leases, or transfers fully
27 comply with subdivision (d) of Section 12072. However, the person
28 shall not engage in the sale, lease, or transfer of used firearms other
29 than handguns at more than 12 gun shows or events in any calendar
30 year and shall not sell, lease, or transfer more than 15 used firearms
31 other than handguns at any single gun show or event. In no event
32 shall the person sell more than 75 used firearms other than
33 handguns in any calendar year.

34 A person described in this paragraph shall be known as a “Gun
35 Show Trader.”

36 The Department of Justice shall adopt regulations to administer
37 this program and shall recover the full costs of administration from
38 fees assessed applicants.

1 As used in this paragraph, the term “used firearm” means a
2 firearm that has been sold previously at retail and is more than
3 three years old.

4 (6) Deliveries, sales, or transfers of firearms between or to
5 importers and manufacturers of firearms licensed to engage in
6 business pursuant to Chapter 44 (commencing with Section 921)
7 of Title 18 of the United States Code and the regulations issued
8 pursuant thereto.

9 (7) The sale, delivery, or transfer of firearms by manufacturers
10 or importers licensed pursuant to Chapter 44 (commencing with
11 Section 921) of Title 18 of the United States Code and the
12 regulations issued pursuant thereto to dealers or wholesalers.

13 (8) Deliveries and transfers of firearms made pursuant to Section
14 12028, 12028.5, or 12030.

15 (9) The loan of a firearm for the purposes of shooting at targets,
16 if the loan occurs on the premises of a target facility which holds
17 a business or regulatory license or on the premises of any club or
18 organization organized for the purposes of practicing shooting at
19 targets upon established ranges, whether public or private, if the
20 firearm is at all times kept within the premises of the target range
21 or on the premises of the club or organization.

22 (10) Sales, deliveries, or transfers of firearms by manufacturers,
23 importers, or wholesalers licensed pursuant to Chapter 44
24 (commencing with Section 921) of Title 18 of the United States
25 Code and the regulations issued pursuant thereto to persons who
26 reside outside this state who are licensed pursuant to Chapter 44
27 (commencing with Section 921) of Title 18 of the United States
28 Code and the regulations issued pursuant thereto, if the sale,
29 delivery, or transfer is in accordance with Chapter 44 (commencing
30 with Section 921) of Title 18 of the United States Code and the
31 regulations issued pursuant thereto.

32 (11) Sales, deliveries, or transfers of firearms by persons who
33 reside outside this state and are licensed outside this state pursuant
34 to Chapter 44 (commencing with Section 921) of Title 18 of the
35 United States Code and the regulations issued pursuant thereto to
36 wholesalers, manufacturers, or importers, if the sale, delivery, or
37 transfer is in accordance with Chapter 44 (commencing with
38 Section 921) of Title 18 of the United States Code and the
39 regulations issued pursuant thereto.

1 (12) Sales, deliveries, or transfers of firearms by wholesalers
2 to dealers.

3 (13) Sales, deliveries, or transfers of firearms by persons who
4 reside outside this state to persons licensed pursuant to Section
5 12071, if the sale, delivery, or transfer is in accordance with
6 Chapter 44 (commencing with Section 921) of Title 18 of the
7 United States Code, and the regulations issued pursuant thereto.

8 (14) Sales, deliveries, or transfers of firearms by persons who
9 reside outside this state and are licensed pursuant to Chapter 44
10 (commencing with Section 921) of Title 18 of the United States
11 Code and the regulations issued pursuant thereto to dealers, if the
12 sale, delivery, or transfer is in accordance with Chapter 44
13 (commencing with Section 921) of Title 18 of the United States
14 Code and the regulations issued pursuant thereto.

15 (15) The delivery, sale, or transfer of an unloaded firearm by
16 one wholesaler to another wholesaler if that firearm is intended as
17 merchandise in the receiving wholesaler's business.

18 (16) The loan of an unloaded firearm or the loan of a firearm
19 loaded with blank cartridges for use solely as a prop for a motion
20 picture, television, or video production or entertainment or
21 theatrical event.

22 (17) The delivery of an unloaded firearm that is a curio or relic,
23 as defined in Section 478.11 of Title 27 of the Code of Federal
24 Regulations, by a person licensed as a collector pursuant to Chapter
25 44 (commencing with Section 921) of Title 18 of the United States
26 Code and the regulations issued pursuant thereto with a current
27 certificate of eligibility issued pursuant to Section 12071 to a
28 dealer.

29 (18) Loans or returns of firearms to or from a gunsmith for
30 service or repair.

31 (19) The delivery, sale, return, or transfer of a firearm regulated
32 pursuant to Article 6 (commencing with Section 12095) of Chapter
33 1, Chapter 2 (commencing with Section 12200), Chapter 2.3
34 (commencing with Section 12275), or Chapter 2.5 (commencing
35 with Section 12301) by a person who holds a permit issued
36 pursuant to Section 12095, 12230, 12287, or 12305, if the delivery,
37 sale, return, or transfer is conducted in accordance with the terms
38 and conditions of the permit.

39 (c) (1) As used in this section, "infrequent" means:

1 (A) For handguns, less than six transactions per calendar year.
2 For this purpose, “transaction” means a single sale, lease, or
3 transfer of any number of handguns.

4 (B) For firearms other than handguns, occasional and without
5 regularity.

6 (2) As used in this section, “operation of law” includes, but is
7 not limited to, any of the following:

8 (A) The executor or administrator of an estate, if the estate
9 includes firearms.

10 (B) A secured creditor or an agent or employee thereof when
11 the firearms are possessed as collateral for, or as a result of, a
12 default under a security agreement under the Commercial Code.

13 (C) A levying officer, as defined in Section 481.140, 511.060,
14 or 680.260 of the Code of Civil Procedure.

15 (D) A receiver performing his or her functions as a receiver, if
16 the receivership estate includes firearms.

17 (E) A trustee in bankruptcy performing his or her duties, if the
18 bankruptcy estate includes firearms.

19 (F) An assignee for the benefit of creditors performing his or
20 her functions as an assignee, if the assignment includes firearms.

21 (G) A transmutation of property between spouses pursuant to
22 Section 850 of the Family Code.

23 (H) Firearms received by the family of a police officer or deputy
24 sheriff from a local agency pursuant to Section 50081 of the
25 Government Code.

26 (I) The transfer of a firearm by a law enforcement agency to
27 the person who found the firearm where the delivery is to the
28 person as the finder of the firearm pursuant to Article 1
29 (commencing with Section 2080) of Chapter 4 of Division 3 of
30 the Civil Code.

31 SEC. 2. Section 12072 of the Penal Code is amended to read:

32 12072. (a) (1) No person, corporation, or firm shall knowingly
33 supply, deliver, sell, or give possession or control of a firearm to
34 any person within any of the classes prohibited by Section 12021
35 or 12021.1.

36 (2) No person, corporation, or dealer shall sell, supply, deliver,
37 or give possession or control of a firearm to any person whom he
38 or she has cause to believe to be within any of the classes
39 prohibited by Section 12021 or 12021.1 of this code or Section
40 8100 or 8103 of the Welfare and Institutions Code.

1 (3) (A) No person, corporation, or firm shall sell, loan, or
2 transfer a firearm to a minor, nor sell a handgun to an individual
3 under 21 years of age.

4 (B) Subparagraph (A) shall not apply to or affect those
5 circumstances set forth in subdivision (p) of Section 12078.

6 (4) No person, corporation, or dealer shall sell, loan, or transfer
7 a firearm to any person whom he or she knows or has cause to
8 believe is not the actual purchaser or transferee of the firearm, or
9 to any person who is not the person actually being loaned the
10 firearm, if the person, corporation, or dealer has either of the
11 following:

12 (A) Knowledge that the firearm is to be subsequently loaned,
13 sold, or transferred to avoid the provisions of subdivision (c) or
14 (d).

15 (B) Knowledge that the firearm is to be subsequently loaned,
16 sold, or transferred to avoid the requirements of any exemption to
17 the provisions of subdivision (c) or (d).

18 (5) No person, corporation, or dealer shall acquire a firearm for
19 the purpose of selling, transferring, or loaning the firearm, if the
20 person, corporation, or dealer has either of the following:

21 (A) In the case of a dealer, intent to violate subdivision (b) or
22 (c).

23 (B) In any other case, intent to avoid either of the following:

24 (i) The provisions of subdivision (d).

25 (ii) The requirements of any exemption to the provisions of
26 subdivision (d).

27 (6) The dealer shall comply with the provisions of paragraph
28 (18) of subdivision (b) of Section 12071.

29 (7) The dealer shall comply with the provisions of paragraph
30 (19) of subdivision (b) of Section 12071.

31 (8) No person shall sell or otherwise transfer his or her
32 ownership in a handgun unless the firearm bears either:

33 (A) The name of the manufacturer, the manufacturer's make or
34 model, and a manufacturer's serial number assigned to that firearm.

35 (B) The identification number or mark assigned to the firearm
36 by the Department of Justice pursuant to Section 12092.

37 (9) (A) No person shall make an application to purchase more
38 than one handgun within any 30-day period.

39 (B) Subparagraph (A) shall not apply to any of the following:

40 (i) Any law enforcement agency.

1 (ii) Any agency duly authorized to perform law enforcement
2 duties.

3 (iii) Any state or local correctional facility.

4 (iv) Any private security company licensed to do business in
5 California.

6 (v) Any person who is properly identified as a full-time paid
7 peace officer, as defined in Chapter 4.5 (commencing with Section
8 830) of Title 3 of Part 2, and who is authorized to, and does carry
9 a firearm during the course and scope of his or her employment
10 as a peace officer.

11 (vi) Any motion picture, television, or video production
12 company or entertainment or theatrical company whose production
13 by its nature involves the use of a firearm.

14 (vii) Any person who may, pursuant to Section 12078, claim
15 an exemption from the waiting period set forth in subdivision (c)
16 of this section.

17 (viii) Any transaction conducted through a licensed firearms
18 dealer pursuant to Section 12082.

19 (ix) Any person who is licensed as a collector pursuant to
20 Chapter 44 (commencing with Section 921) of Title 18 of the
21 United States Code and the regulations issued pursuant thereto
22 and who has a current certificate of eligibility issued to him or her
23 by the Department of Justice pursuant to Section 12071.

24 (x) The exchange of a handgun where the dealer purchased that
25 firearm from the person seeking the exchange within the 30-day
26 period immediately preceding the date of exchange or replacement.

27 (xi) The replacement of a handgun when the person's handgun
28 was lost or stolen, and the person reported that firearm lost or
29 stolen prior to the completion of the application to purchase to any
30 local law enforcement agency of the city, county, or city and county
31 in which he or she resides.

32 (xii) The return of any handgun to its owner.

33 (xiii) *Community colleges that are certified by the Commission*
34 *on Peace Officer Standards and Training to present the law*
35 *enforcement academy basic course or other commission-certified*
36 *law enforcement training.*

37 (b) No person licensed under Section 12071 shall supply, sell,
38 deliver, or give possession or control of a handgun to any person
39 under the age of 21 years or any other firearm to a person under
40 the age of 18 years.

(c) No dealer, whether or not acting pursuant to Section 12082, shall deliver a firearm to a person, as follows:

(1) Within 10 days of the application to purchase, or, after notice by the department pursuant to subdivision (d) of Section 12076, within 10 days of the submission to the department of any correction to the application, or within 10 days of the submission to the department of any fee required pursuant to subdivision (e) of Section 12076, whichever is later.

(2) Unless unloaded and securely wrapped or unloaded and in a locked container.

(3) Unless the purchaser, transferee, or person being loaned the firearm presents clear evidence of his or her identity and age, as defined in Section 12071, to the dealer.

(4) Whenever the dealer is notified by the Department of Justice that the person is prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm.

(5) (A) Commencing April 1, 1994, and until January 1, 2003, no handgun shall be delivered unless the purchaser, transferee, or person being loaned the firearm presents to the dealer a basic firearms safety certificate.

(B) Commencing January 1, 2003, no handgun shall be delivered unless the purchaser, transferee, or person being loaned the handgun presents a handgun safety certificate to the dealer.

(6) No handgun shall be delivered whenever the dealer is notified by the Department of Justice that within the preceding 30-day period the purchaser has made another application to purchase a handgun and that the previous application to purchase involved none of the entities specified in subparagraph (B) of paragraph (9) of subdivision (a).

(d) Where neither party to the transaction holds a dealer's license issued pursuant to Section 12071, the parties to the transaction shall complete the sale, loan, or transfer of that firearm through a licensed firearms dealer pursuant to Section 12082.

(e) No person may commit an act of collusion relating to Article 8 (commencing with Section 12800) of Chapter 6. For purposes of this section and Section 12071, collusion may be proven by any one of the following factors:

(1) Answering a test applicant's questions during an objective test relating to firearms safety.

(2) Knowingly grading the examination falsely.

1 (3) Providing an advance copy of the test to an applicant.

2 (4) Taking or allowing another person to take the basic firearms
3 safety course for one who is the applicant for a basic firearms
4 safety certificate or a handgun safety certificate.

5 (5) Allowing another to take the objective test for the applicant,
6 purchaser, or transferee.

7 (6) Using or allowing another to use one's identification, proof
8 of residency, or thumbprint.

9 (7) Allowing others to give unauthorized assistance during the
10 examination.

11 (8) Reference to unauthorized materials during the examination
12 and cheating by the applicant.

13 (9) Providing originals or photocopies of the objective test, or
14 any version thereof, to any person other than as authorized by the
15 department.

16 (f) (1) (A) Commencing July 1, 2008, a person who is licensed
17 pursuant to Chapter 44 (commencing with Section 921) of Title
18 18 of the United States Code may not deliver, sell, or transfer a
19 firearm to a person in California who is licensed pursuant to
20 Chapter 44 (commencing with Section 921) of Title 18 of the
21 United States Code unless, prior to delivery, the person intending
22 to deliver, sell, or transfer the firearm obtains a verification number
23 via the Internet for the intended delivery, sale, or transfer, from
24 the department. If Internet service is unavailable to either the
25 department or the licensee due to a technical or other malfunction,
26 or a federal firearms licensee who is located outside of California
27 does not possess a computer or have Internet access, alternate
28 means of communication, including facsimile or telephone, shall
29 be made available for a licensee to obtain a verification number
30 in order to comply with this section.

31 (B) For every verification number request received pursuant to
32 this section, the department shall determine whether the intended
33 recipient is on the centralized list of firearms dealers pursuant to
34 this section, or the centralized list of exempted federal firearms
35 licensees pursuant to subdivision (a) of Section 12083, or the
36 centralized list of firearms manufacturers pursuant to subdivision
37 (f) of Section 12086.

38 (C) If the department finds after the reviews specified in
39 subparagraph (B) that the intended recipient is authorized to receive
40 the firearm shipment, the department shall issue to the inquiring

1 party a unique verification number for the intended delivery, sale,
2 or transfer. One verification number shall be issued for each
3 delivery, sale, or transfer, which may involve multiple firearms.
4 In addition to the unique verification number, the department may
5 provide to the inquiring party information necessary for
6 determining the eligibility of the intended recipient to receive the
7 firearm. The person intending to deliver, sell, or transfer the firearm
8 shall provide the unique verification number to the recipient along
9 with the firearm upon delivery, in a manner to be determined by
10 the department.

11 (D) If the department finds after the reviews specified in
12 subparagraph (B) that the intended recipient is not authorized to
13 receive the firearm shipment, the department shall notify the
14 inquiring party that the intended recipient is ineligible to receive
15 the shipment.

16 (E) The department shall prescribe the manner in which the
17 verification numbers may be requested via the Internet, or by
18 alternate means of communication, such as by facsimile or
19 telephone, including all required enrollment information and
20 procedures.

21 (2) (A) On or after January 1, 1998, within 60 days of bringing
22 a handgun into this state, a personal handgun importer shall do
23 one of the following:

24 (i) Forward by prepaid mail or deliver in person to the
25 Department of Justice, a report prescribed by the department
26 including information concerning that individual and a description
27 of the firearm in question.

28 (ii) Sell or transfer the firearm in accordance with the provisions
29 of subdivision (d) or in accordance with the provisions of an
30 exemption from subdivision (d).

31 (iii) Sell or transfer the firearm to a dealer licensed pursuant to
32 Section 12071.

33 (iv) Sell or transfer the firearm to a sheriff or police department.

34 (B) If the personal handgun importer sells or transfers the
35 handgun pursuant to subdivision (d) of Section 12072 and the sale
36 or transfer cannot be completed by the dealer to the purchaser or
37 transferee, and the firearm can be returned to the personal handgun
38 importer, the personal handgun importer shall have complied with
39 the provisions of this paragraph.

1 (C) The provisions of this paragraph are cumulative and shall
2 not be construed as restricting the application of any other law.
3 However, an act or omission punishable in different ways by this
4 section and different provisions of the Penal Code shall not be
5 punished under more than one provision.

6 (D) (i) On and after January 1, 1998, the department shall
7 conduct a public education and notification program regarding this
8 paragraph to ensure a high degree of publicity of the provisions
9 of this paragraph.

10 (ii) As part of the public education and notification program
11 described in this subparagraph, the department shall do all of the
12 following:

13 (I) Work in conjunction with the Department of Motor Vehicles
14 to ensure that any person who is subject to this paragraph is advised
15 of the provisions of this paragraph, and provided with blank copies
16 of the report described in clause (i) of subparagraph (A) at the time
17 that person applies for a California driver's license or registers his
18 or her motor vehicle in accordance with the Vehicle Code.

19 (II) Make the reports referred to in clause (i) of subparagraph
20 (A) available to dealers licensed pursuant to Section 12071.

21 (III) Make the reports referred to in clause (i) of subparagraph
22 (A) available to law enforcement agencies.

23 (IV) Make persons subject to the provisions of this paragraph
24 aware of the fact that reports referred to in clause (i) of
25 subparagraph (A) may be completed at either the licensed premises
26 of dealers licensed pursuant to Section 12071 or at law enforcement
27 agencies, that it is advisable to do so for the sake of accuracy and
28 completeness of the reports, that prior to transporting a handgun
29 to a law enforcement agency in order to comply with subparagraph
30 (A), the person should give prior notice to the law enforcement
31 agency that he or she is doing so, and that in any event, the handgun
32 should be transported unloaded and in a locked container.

33 (iii) Any costs incurred by the department to implement this
34 paragraph shall be absorbed by the department within its existing
35 budget and the fees in the Dealers' Record of Sale Special Account
36 allocated for implementation of this subparagraph pursuant to
37 Section 12076.

38 (3) Where a person who is licensed as a collector pursuant to
39 Chapter 44 (commencing with Section 921) of Title 18 of the
40 United States Code and the regulations issued pursuant thereto,

1 whose licensed premises are within this state, acquires a handgun
2 that is a curio or relic, as defined in Section 478.11 of Title 27 of
3 the Code of Federal Regulations, outside of this state, takes actual
4 possession of that firearm outside of this state pursuant to the
5 provisions of subsection (j) of Section 923 of Title 18 of the United
6 States Code, as amended by Public Law 104-208, and transports
7 that firearm into this state, within five days of that licensed
8 collector transporting that firearm into this state, he or she shall
9 report to the department in a format prescribed by the department
10 his or her acquisition of that firearm.

11 (4) (A) It is the intent of the Legislature that a violation of
12 paragraph (2) or (3) shall not constitute a “continuing offense” and
13 the statute of limitations for commencing a prosecution for a
14 violation of paragraph (2) or (3) commences on the date that the
15 applicable grace period specified in paragraph (2) or (3) expires.

16 (B) Paragraphs (2) and (3) shall not apply to a person who
17 reports his or her ownership of a handgun after the applicable grace
18 period specified in paragraph (2) or (3) expires if evidence of that
19 violation arises only as the result of the person submitting the
20 report described in paragraph (2) or (3).

21 (g) (1) Except as provided in paragraph (2), (3), or (5), a
22 violation of this section is a misdemeanor.

23 (2) If any of the following circumstances apply, a violation of
24 this section is punishable by imprisonment in the state prison for
25 two, three, or four years.

26 (A) If the violation is of paragraph (1) of subdivision (a).

27 (B) If the defendant has a prior conviction of violating the
28 provisions, other than paragraph (9) of subdivision (a), of this
29 section or former Section 12100 of this code or Section 8101 of
30 the Welfare and Institutions Code.

31 (C) If the defendant has a prior conviction of violating any
32 offense specified in subdivision (b) of Section 12021.1 or of a
33 violation of Section 12020, 12220, or 12520, or of former Section
34 12560.

35 (D) If the defendant is in a prohibited class described in Section
36 12021 or 12021.1 of this code or Section 8100 or 8103 of the
37 Welfare and Institutions Code.

38 (E) A violation of this section by a person who actively
39 participates in a “criminal street gang” as defined in Section 186.22.

(F) A violation of subdivision (b) involving the delivery of any firearm to a person who the dealer knows, or should know, is a minor.

(3) If any of the following circumstances apply, a violation of this section shall be punished by imprisonment in a county jail not exceeding one year or in the state prison, or by a fine not to exceed one thousand dollars (\$1,000), or by both that fine and imprisonment.

(A) A violation of paragraph (2), (4), or (5) of subdivision (a).

(B) A violation of paragraph (3) of subdivision (a) involving the sale, loan, or transfer of a handgun to a minor.

(C) A violation of subdivision (b) involving the delivery of a handgun.

(D) A violation of paragraph (1), (3), (4), (5), or (6) of subdivision (c) involving a pistol, revolver, or other firearm capable of being concealed upon the person.

(E) A violation of subdivision (d) involving a handgun.

(F) A violation of subdivision (e).

(4) If both of the following circumstances apply, an additional term of imprisonment in the state prison for one, two, or three years shall be imposed in addition and consecutive to the sentence prescribed.

(A) A violation of paragraph (2) of subdivision (a) or subdivision (b).

(B) The firearm transferred in violation of paragraph (2) of subdivision (a) or subdivision (b) is used in the subsequent commission of a felony for which a conviction is obtained and the prescribed sentence is imposed.

(5) (A) A first violation of paragraph (9) of subdivision (a) is an infraction punishable by a fine of fifty dollars (\$50).

(B) A second violation of paragraph (9) of subdivision (a) is an infraction punishable by a fine of one hundred dollars (\$100).

(C) A third or subsequent violation of paragraph (9) of subdivision (a) is a misdemeanor.

(D) For purposes of this paragraph each application to purchase a handgun in violation of paragraph (9) of subdivision (a) shall be deemed a separate offense.

SEC. 3. Section 12078 of the Penal Code is amended to read:

12078. (a) (1) The waiting periods described in Sections 12071 and 12072 shall not apply to the deliveries, transfers, or sales of

1 firearms made to persons properly identified as full-time paid peace
2 officers as defined in Chapter 4.5 (commencing with Section 830)
3 of Title 3 of Part 2, provided that the peace officers are authorized
4 by their employer to carry firearms while in the performance of
5 their duties. Proper identification is defined as verifiable written
6 certification from the head of the agency by which the purchaser
7 or transferee is employed, identifying the purchaser or transferee
8 as a peace officer who is authorized to carry firearms while in the
9 performance of his or her duties, and authorizing the purchase or
10 transfer. The certification shall be delivered to the dealer at the
11 time of purchase or transfer and the purchaser or transferee shall
12 identify himself or herself as the person authorized in the
13 certification. The dealer shall keep the certification with the record
14 of sale. On the date that the delivery, sale, or transfer is made, the
15 dealer delivering the firearm shall transmit to the Department of
16 Justice an electronic or telephonic report of the transaction as is
17 indicated in subdivision (b) or (c) of Section 12077.

18 (2) Subdivision (b) of Section 12801 and the preceding
19 provisions of this article do not apply to deliveries, transfers, or
20 sales of firearms made to authorized law enforcement
21 representatives of cities, counties, cities and counties, or state or
22 federal governments for exclusive use by those governmental
23 agencies if, prior to the delivery, transfer, or sale of these firearms,
24 written authorization from the head of the agency authorizing the
25 transaction is presented to the person from whom the purchase,
26 delivery, or transfer is being made. Proper written authorization
27 is defined as verifiable written certification from the head of the
28 agency by which the purchaser or transferee is employed,
29 identifying the employee as an individual authorized to conduct
30 the transaction, and authorizing the transaction for the exclusive
31 use of the agency by which he or she is employed. Within 10 days
32 of the date a handgun is acquired by the agency, a record of the
33 same shall be entered as an institutional weapon into the Automated
34 Firearms System (AFS) via the California Law Enforcement
35 Telecommunications System (CLETS) by the law enforcement or
36 state agency. Those agencies without access to AFS shall arrange
37 with the sheriff of the county in which the agency is located to
38 input this information via this system.

39 (3) Subdivision (b) of Section 12801 and the preceding
40 provisions of this article do not apply to the loan of a firearm made

1 by an authorized law enforcement representative of a city, county,
2 or city and county, or the state or federal government to a peace
3 officer employed by that agency and authorized to carry a firearm
4 for the carrying and use of that firearm by that peace officer in the
5 course and scope of his or her duties.

6 (4) Subdivision (b) of Section 12801 and the preceding
7 provisions of this article do not apply to the delivery, sale, or
8 transfer of a firearm by a law enforcement agency to a peace officer
9 pursuant to Section 10334 of the Public Contract Code. Within 10
10 days of the date that a handgun is sold, delivered, or transferred
11 pursuant to Section 10334 of the Public Contract Code to that
12 peace officer, the name of the officer and the make, model, serial
13 number, and other identifying characteristics of the firearm being
14 sold, transferred, or delivered shall be entered into the Automated
15 Firearms System (AFS) via the California Law Enforcement
16 Telecommunications System (CLETS) by the law enforcement or
17 state agency that sold, transferred, or delivered the firearm. Those
18 agencies without access to AFS shall arrange with the sheriff of
19 the county in which the agency is located to input this information
20 via this system.

21 (5) Subdivision (b) of Section 12801 and the preceding
22 provisions of this article do not apply to the delivery, sale, or
23 transfer of a firearm by a law enforcement agency to a retiring
24 peace officer who is authorized to carry a firearm pursuant to
25 Section 12027.1. Within 10 days of the date that a handgun is sold,
26 delivered, or transferred to that retiring peace officer, the name of
27 the officer and the make, model, serial number, and other
28 identifying characteristics of the firearm being sold, transferred,
29 or delivered shall be entered into the Automated Firearms System
30 (AFS) via the California Law Enforcement Telecommunications
31 System (CLETS) by the law enforcement or state agency that sold,
32 transferred, or delivered the firearm. Those agencies without access
33 to AFS shall arrange with the sheriff of the county in which the
34 agency is located to input this information via this system.

35 (6) Subdivision (d) of Section 12072 and subdivision (b) of
36 Section 12801 do not apply to sales, deliveries, or transfers of
37 firearms to authorized representatives of cities, cities and counties,
38 counties, or state or federal governments for those governmental
39 agencies where the entity is acquiring the weapon as part of an
40 authorized, voluntary program where the entity is buying or

1 receiving weapons from private individuals. Any weapons acquired
2 pursuant to this paragraph shall be disposed of pursuant to the
3 applicable provisions of Section 12028 or 12032.

4 (7) Subdivision (d) of Section 12072 and subdivision (b) of
5 Section 12801 shall not apply to the sale, loan, delivery, or transfer
6 of a firearm made by an authorized law enforcement representative
7 of a city, county, city and county, state, or the federal government
8 to any public or private nonprofit historical society, museum, or
9 institutional collection or the purchase or receipt of that firearm
10 by that public or private nonprofit historical society, museum, or
11 institutional collection if all of the following conditions are met:

12 (A) The entity receiving the firearm is open to the public.

13 (B) The firearm prior to delivery is deactivated or rendered
14 inoperable.

15 (C) The firearm is not subject to Section 12028, 12028.5, 12030,
16 or 12032.

17 (D) The firearm is not prohibited by other provisions of law
18 from being sold, delivered, or transferred to the public at large.

19 (E) Prior to delivery, the entity receiving the firearm submits a
20 written statement to the law enforcement representative stating
21 that the firearm will not be restored to operating condition, and
22 will either remain with that entity, or if subsequently disposed of,
23 will be transferred in accordance with the applicable provisions
24 of this article and, if applicable, Section 12801.

25 (F) Within 10 days of the date that the firearm is sold, loaned,
26 delivered, or transferred to that entity, the name of the government
27 entity delivering the firearm, and the make, model, serial number,
28 and other identifying characteristics of the firearm and the name
29 of the person authorized by the entity to take possession of the
30 firearm shall be reported to the department in a manner prescribed
31 by the department.

32 (G) In the event of a change in the status of the designated
33 representative, the entity shall notify the department of a new
34 representative within 30 days.

35 (8) Subdivision (d) of Section 12072 and subdivision (b) of
36 Section 12801 shall not apply to the sale, loan, delivery, or transfer
37 of a firearm made by any person other than a representative of an
38 authorized law enforcement agency to any public or private
39 nonprofit historical society, museum, or institutional collection if
40 all of the following conditions are met:

1 (A) The entity receiving the firearm is open to the public.

2 (B) The firearm is deactivated or rendered inoperable prior to
3 delivery.

4 (C) The firearm is not of a type prohibited from being sold,
5 delivered, or transferred to the public.

6 (D) Prior to delivery, the entity receiving the firearm submits a
7 written statement to the person selling, loaning, or transferring the
8 firearm stating that the firearm will not be restored to operating
9 condition, and will either remain with that entity, or if subsequently
10 disposed of, will be transferred in accordance with the applicable
11 provisions of this article and, if applicable, Section 12801.

12 (E) If title to a handgun is being transferred to the public or
13 private nonprofit historical society, museum, or institutional
14 collection, then the designated representative of that public or
15 private historical society, museum, or institutional collection,
16 within 30 days of taking possession of that handgun, shall forward
17 by prepaid mail or deliver in person to the Department of Justice,
18 a single report signed by both parties to the transaction, that
19 includes information identifying the person representing that public
20 or private historical society, museum, or institutional collection,
21 how title was obtained and from whom, and a description of the
22 firearm in question, along with a copy of the written statement
23 referred to in subparagraph (D). The report forms that are to be
24 completed pursuant to this paragraph shall be provided by the
25 Department of Justice.

26 (F) In the event of a change in the status of the designated
27 representative, the entity shall notify the department of a new
28 representative within 30 days.

29 (b) (1) Section 12071, subdivisions (c) and (d) of Section 12072,
30 and subdivision (b) of Section 12801 shall not apply to deliveries,
31 sales, or transfers of firearms between or to importers and
32 manufacturers of firearms licensed to engage in that business
33 pursuant to Chapter 44 (commencing with Section 921) of Title
34 18 of the United States Code and the regulations issued pursuant
35 thereto.

36 (2) Subdivision (b) of Section 12801 shall not apply to the
37 delivery, sale, or transfer of a handgun to a person licensed pursuant
38 to Section 12071, where the licensee is receiving the handgun in
39 the course and scope of his or her activities as a person licensed
40 pursuant to Section 12071.

1 (c) (1) Subdivision (d) of Section 12072 shall not apply to the
2 infrequent transfer of a firearm that is not a handgun by gift,
3 bequest, intestate succession, or other means by one individual to
4 another if both individuals are members of the same immediate
5 family.

6 (2) Subdivision (d) of Section 12072 shall not apply to the
7 infrequent transfer of a handgun by gift, bequest, intestate
8 succession, or other means by one individual to another if both
9 individuals are members of the same immediate family and all of
10 the following conditions are met:

11 (A) The person to whom the firearm is transferred shall, within
12 30 days of taking possession of the firearm, forward by prepaid
13 mail or deliver in person to the Department of Justice, a report that
14 includes information concerning the individual taking possession
15 of the firearm, how title was obtained and from whom, and a
16 description of the firearm in question. The report forms that
17 individuals complete pursuant to this paragraph shall be provided
18 to them by the Department of Justice.

19 (B) The person taking title to the firearm shall first obtain a
20 handgun safety certificate.

21 (C) The person receiving the firearm is 18 years of age or older.

22 (3) As used in this subdivision, "immediate family member"
23 means any one of the following relationships:

24 (A) Parent and child.

25 (B) Grandparent and grandchild.

26 (d) (1) Subdivision (d) of Section 12072 shall not apply to the
27 infrequent loan of firearms between persons who are personally
28 known to each other for any lawful purpose, if the loan does not
29 exceed 30 days in duration and, when the firearm is a handgun,
30 commencing January 1, 2003, the individual being loaned the
31 handgun has a valid handgun safety certificate.

32 (2) Subdivision (d) of Section 12072, and subdivision (b) of
33 Section 12801 shall not apply to the loan of a firearm where all of
34 the following conditions exist:

35 (A) The person loaning the firearm is at all times within the
36 presence of the person being loaned the firearm.

37 (B) The loan is for a lawful purpose.

38 (C) The loan does not exceed three days in duration.

1 (D) The individual receiving the firearm is not prohibited by
2 state or federal law from possessing, receiving, owning, or
3 purchasing a firearm.

4 (E) The person loaning the firearm is 18 years of age or older.

5 (F) The person being loaned the firearm is 18 years of age or
6 older.

7 (e) (1) Section 12071, subdivisions (c) and (d) and paragraph
8 (1) of subdivision (f) of Section 12072, and subdivision (b) of
9 Section 12801 shall not apply to the delivery of a firearm to a
10 gunsmith for service or repair, or to the return of the firearm to its
11 owner by the gunsmith, or to the delivery of a firearm by a
12 gunsmith to a person licensed pursuant to Chapter 44 (commencing
13 with Section 921) of Title 18 of the United States Code for service
14 or repair and the return of the firearm to the gunsmith.

15 (2) Paragraph (1) of subdivision (f) of Section 12072 shall not
16 apply to the delivery, sale, or transfer of any firearm in any of the
17 following circumstances:

18 (A) Where the transferor and the transferee are the same person
19 or corporation.

20 (B) Where the transfer is to or from a person who has a valid
21 entertainment firearms permit under Section 12081 and the transfer
22 involves the loan or return of firearms used solely as props in
23 television, film, or theatrical productions.

24 (f) Subdivision (d) of Section 12072 and subdivision (b) of
25 Section 12801 shall not apply to the sale, delivery, or transfer of
26 firearms by persons who reside in this state to persons who reside
27 outside this state who are licensed pursuant to Chapter 44
28 (commencing with Section 921) of Title 18 of the United States
29 Code and the regulations issued pursuant thereto, if the sale,
30 delivery, or transfer is in accordance with Chapter 44 (commencing
31 with Section 921) of Title 18 of the United States Code and the
32 regulations issued pursuant thereto.

33 (g) (1) Subdivision (d) of Section 12072 shall not apply to the
34 infrequent sale or transfer of a firearm, other than a handgun, at
35 auctions or similar events conducted by nonprofit mutual or public
36 benefit corporations organized pursuant to the Corporations Code.

37 As used in this paragraph, the term “infrequent” shall not be
38 construed to prohibit different local chapters of the same nonprofit
39 corporation from conducting auctions or similar events, provided
40 the individual local chapter conducts the auctions or similar events

infrequently. It is the intent of the Legislature that different local chapters, representing different localities, be entitled to invoke the exemption created by this paragraph, notwithstanding the frequency with which other chapters of the same nonprofit corporation may conduct auctions or similar events.

(2) Subdivision (d) of Section 12072 shall not apply to the transfer of a firearm other than a handgun, if the firearm is donated for an auction or similar event described in paragraph (1) and the firearm is delivered to the nonprofit corporation immediately preceding, or contemporaneous with, the auction or similar event.

(3) The waiting period described in Sections 12071 and 12072 shall not apply to a dealer who delivers a firearm other than a handgun at an auction or similar event described in paragraph (1), as authorized by subparagraph (C) of paragraph (1) of subdivision (b) of Section 12071. Within two business days of completion of the application to purchase, the dealer shall forward by prepaid mail to the Department of Justice a report of the same as is indicated in subdivision (c) of Section 12077. If the electronic or telephonic transfer of applicant information is used, within two business days of completion of the application to purchase, the dealer delivering the firearm shall transmit to the Department of Justice an electronic or telephonic report of the same as is indicated in subdivision (c) of Section 12077.

(h) Subdivision (d) of Section 12072 and subdivision (b) of Section 12801 shall not apply to the loan of a firearm to a person 18 years of age or older for the purposes of shooting at targets if the loan occurs on the premises of a target facility that holds a business or regulatory license or on the premises of any club or organization organized for the purposes of practicing shooting at targets upon established ranges, whether public or private, if the firearm is at all times kept within the premises of the target range or on the premises of the club or organization.

(i) (1) Subdivision (d) of Section 12072 shall not apply to a person who takes title or possession of a firearm that is not a handgun by operation of law if the person is not prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm.

(2) Subdivision (d) of Section 12072 shall not apply to a person who takes title or possession of a handgun by operation of law if the person is not prohibited by state or federal law from possessing,

1 receiving, owning, or purchasing a firearm and all of the following
2 conditions are met:

3 (A) If the person taking title or possession is neither a levying
4 officer as defined in Section 481.140, 511.060, or 680.210 of the
5 Code of Civil Procedure, nor a person who is receiving that firearm
6 pursuant to subparagraph (G), (I), or (J) of paragraph (2) of
7 subdivision (u), the person shall, within 30 days of taking
8 possession, forward by prepaid mail or deliver in person to the
9 Department of Justice, a report of information concerning the
10 individual taking possession of the firearm, how title or possession
11 was obtained and from whom, and a description of the firearm in
12 question. The reports that individuals complete pursuant to this
13 paragraph shall be provided to them by the department.

14 (B) If the person taking title or possession is receiving the
15 firearm pursuant to subparagraph (G) of paragraph (2) of
16 subdivision (u), the person shall do both of the following:

17 (i) Within 30 days of taking possession, forward by prepaid
18 mail or deliver in person to the department, a report of information
19 concerning the individual taking possession of the firearm, how
20 title or possession was obtained and from whom, and a description
21 of the firearm in question. The reports that individuals complete
22 pursuant to this paragraph shall be provided to them by the
23 department.

24 (ii) Prior to taking title or possession of the firearm, the person
25 shall obtain a handgun safety certificate.

26 (C) Where the person receiving title or possession of the
27 handgun is a person described in subparagraph (I) of paragraph
28 (2) of subdivision (u), on the date that the person is delivered the
29 firearm, the name and other information concerning the person
30 taking possession of the firearm, how title or possession of the
31 firearm was obtained and from whom, and a description of the
32 firearm by make, model, serial number, and other identifying
33 characteristics shall be entered into the Automated Firearms System
34 (AFS) via the California Law Enforcement Telecommunications
35 System (CLETS) by the law enforcement or state agency that
36 transferred or delivered the firearm. Those agencies without access
37 to AFS shall arrange with the sheriff of the county in which the
38 agency is located to input this information via this system.

39 (D) Where the person receiving title or possession of the
40 handgun is a person described in subparagraph (J) of paragraph

(2) of subdivision (u), on the date that the person is delivered the firearm, the name and other information concerning the person taking possession of the firearm, how title or possession of the firearm was obtained and from whom, and a description of the firearm by make, model, serial number, and other identifying characteristics shall be entered into the AFS via the CLETS by the law enforcement or state agency that transferred or delivered the firearm. Those agencies without access to AFS shall arrange with the sheriff of the county in which the agency is located to input this information via this system. In addition, that law enforcement agency shall not deliver that handgun to the person referred to in this subparagraph unless, prior to the delivery of the same, the person presents proof to the agency that he or she is the holder of a handgun safety certificate.

(3) Subdivision (d) of Section 12072 shall not apply to a person who takes possession of a firearm by operation of law in a representative capacity who subsequently transfers ownership of the firearm to himself or herself in his or her individual capacity. In the case of a handgun, the individual shall obtain a handgun safety certificate prior to transferring ownership to himself or herself, or taking possession of a handgun in an individual capacity.

(j) Subdivision (d) of Section 12072 and subdivision (b) of Section 12801 shall not apply to deliveries, transfers, or returns of firearms made pursuant to Section 12021.3, 12028, 12028.5, or 12030.

(k) Section 12071, subdivision (c) of Section 12072, and subdivision (b) of Section 12801 shall not apply to any of the following:

(1) The delivery, sale, or transfer of unloaded firearms that are not handguns by a dealer to another dealer upon proof of compliance with the requirements of paragraph (1) of subdivision (f) of Section 12072.

(2) The delivery, sale, or transfer of unloaded firearms by dealers to persons who reside outside this state who are licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(3) The delivery, sale, or transfer of unloaded firearms to a wholesaler if the firearms are being returned to the wholesaler and are intended as merchandise in the wholesaler's business.

1 (4) The delivery, sale, or transfer of unloaded firearms by one
2 dealer to another dealer if the firearms are intended as merchandise
3 in the receiving dealer's business upon proof of compliance with
4 the requirements of paragraph (1) of subdivision (f) of Section
5 12072.

6 (5) The delivery, sale, or transfer of an unloaded firearm that is
7 not a handgun by a dealer to himself or herself.

8 (6) The loan of an unloaded firearm by a dealer who also
9 operates a target facility that holds a business or regulatory license
10 on the premises of the building designated in the license or whose
11 building designated in the license is on the premises of any club
12 or organization organized for the purposes of practicing shooting
13 at targets upon established ranges, whether public or private, to a
14 person at that target facility or that club or organization, if the
15 firearm is at all times kept within the premises of the target range
16 or on the premises of the club or organization.

17 (l) A person who is exempt from subdivision (d) of Section
18 12072 or is otherwise not required by law to report his or her
19 acquisition, ownership, or disposal of a handgun or who moves
20 out of this state with his or her handgun may submit a report of
21 the same to the Department of Justice in a format prescribed by
22 the department.

23 (m) Subdivision (d) of Section 12072 and subdivision (b) of
24 Section 12801 shall not apply to the delivery, sale, or transfer of
25 unloaded firearms to a wholesaler as merchandise in the
26 wholesaler's business by manufacturers or importers licensed to
27 engage in that business pursuant to Chapter 44 (commencing with
28 Section 921) of Title 18 of the United States Code and the
29 regulations issued pursuant thereto, or by another wholesaler, if
30 the delivery, sale, or transfer is made in accordance with Chapter
31 44 (commencing with Section 921) of Title 18 of the United States
32 Code.

33 (n) (1) The waiting period described in Section 12071 or 12072
34 shall not apply to the delivery, sale, or transfer of a handgun by a
35 dealer in either of the following situations:

36 (A) The dealer is delivering the firearm to another dealer and
37 it is not intended as merchandise in the receiving dealer's business.

38 (B) The dealer is delivering the firearm to himself or herself
39 and it is not intended as merchandise in his or her business.

(2) In order for this subdivision to apply, both of the following shall occur:

(A) If the dealer is receiving the firearm from another dealer, the dealer receiving the firearm shall present proof to the dealer delivering the firearm that he or she is licensed pursuant to Section 12071 by complying with paragraph (1) of subdivision (f) of Section 12072.

(B) Whether the dealer is delivering, selling, or transferring the firearm to himself or herself or to another dealer, on the date that the application to purchase is completed, the dealer delivering the firearm shall forward by prepaid mail to the Department of Justice a report of the same and the type of information concerning the purchaser or transferee as is indicated in subdivision (b) of Section 12077. Where the electronic or telephonic transfer of applicant information is used, on the date that the application to purchase is completed, the dealer delivering the firearm shall transmit an electronic or telephonic report of the same and the type of information concerning the purchaser or transferee as is indicated in subdivision (b) of Section 12077.

(o) Section 12071 and subdivisions (c) and (d) of Section 12072 shall not apply to the delivery, sale, or transfer of a firearm regulated pursuant to Section 12020, Chapter 2 (commencing with Section 12200), Chapter 2.3 (commencing with Section 12275), or Chapter 2.5 (commencing with Section 12301), if the delivery, sale, or transfer of that firearm is conducted in accordance with the applicable provisions of Section 12020, Chapter 2 (commencing with Section 12200), Chapter 2.3 (commencing with Section 12275), or Chapter 2.5 (commencing with Section 12301).

(p) (1) Paragraph (3) of subdivision (a) and subdivision (d) of Section 12072 shall not apply to the loan of a firearm that is not a handgun to a minor, with the express permission of the parent or legal guardian of the minor, if the loan does not exceed 30 days in duration and is for a lawful purpose.

(2) Paragraph (3) of subdivision (a) of Section 12072, subdivision (d) of Section 12072, and subdivision (b) of Section 12801 shall not apply to the loan of a handgun to a minor by a person who is not the parent or legal guardian of the minor if all of the following circumstances exist:

(A) The minor has the written consent of his or her parent or legal guardian that is presented at the time of, or prior to the time

1 of, the loan, or is accompanied by his or her parent or legal
2 guardian at the time the loan is made.

3 (B) The minor is being loaned the firearm for the purpose of
4 engaging in a lawful, recreational sport, including, but not limited
5 to, competitive shooting, or agricultural, ranching, or hunting
6 activity, or a motion picture, television, or video production, or
7 entertainment or theatrical event, the nature of which involves the
8 use of a firearm.

9 (C) The duration of the loan does not exceed the amount of time
10 that is reasonably necessary to engage in the lawful, recreational
11 sport, including, but not limited to, competitive shooting, or
12 agricultural, ranching, or hunting activity, or a motion picture,
13 television, or video production, or entertainment or theatrical event,
14 the nature of which involves the use of a firearm.

15 (D) The duration of the loan does not, in any event, exceed 10
16 days.

17 (3) Paragraph (3) of subdivision (a), and subdivision (d), of
18 Section 12072, and subdivision (b) of Section 12801 shall not
19 apply to the loan of a handgun to a minor by his or her parent or
20 legal guardian if both of the following circumstances exist:

21 (A) The minor is being loaned the firearm for the purposes of
22 engaging in a lawful, recreational sport, including, but not limited
23 to, competitive shooting, or agricultural, ranching, or hunting
24 activity, or a motion picture, television, or video production, or
25 entertainment or theatrical event, the nature of which involves the
26 use of a firearm.

27 (B) The duration of the loan does not exceed the amount of time
28 that is reasonably necessary to engage in the lawful, recreational
29 sport, including, but not limited to, competitive shooting, or
30 agricultural, ranching, or hunting activity, or a motion picture,
31 television, or video production, or entertainment or theatrical event,
32 the nature of which involves the use of a firearm.

33 (4) Paragraph (3) of subdivision (a), and subdivision (d), of
34 Section 12072 shall not apply to the transfer or loan of a firearm
35 that is not a handgun to a minor by his or her parent or legal
36 guardian.

37 (5) Paragraph (3) of subdivision (a), and subdivision (d), of
38 Section 12072 shall not apply to the transfer or loan of a firearm
39 that is not a handgun to a minor by his or her grandparent who is

1 not the legal guardian of the minor if the transfer is done with the
2 express permission of the parent or legal guardian of the minor.

3 (6) Subparagraph (A) of paragraph (3) of subdivision (a) of
4 Section 12072 shall not apply to the sale of a handgun if both of
5 the following requirements are satisfied:

6 (A) The sale is to a person who is at least 18 years of age.

7 (B) The firearm is an antique firearm as defined in paragraph
8 (16) of subsection (a) of Section 921 of Title 18 of the United
9 States Code.

10 (q) Subdivision (d) of Section 12072 shall not apply to the loan
11 of a firearm that is not a handgun to a licensed hunter for use by
12 that licensed hunter for a period of time not to exceed the duration
13 of the hunting season for which that firearm is to be used.

14 (r) The waiting period described in Section 12071 or 12072
15 shall not apply to the delivery, sale, or transfer of a firearm to the
16 holder of a special weapons permit issued by the Department of
17 Justice issued pursuant to Section 12095, 12230, 12250, or 12305.
18 On the date that the application to purchase is completed, the dealer
19 delivering the firearm shall transmit to the Department of Justice
20 an electronic or telephonic report of the same as is indicated in
21 subdivision (b) or (c) of Section 12077.

22 (s) (1) Subdivision (d) of Section 12072 and subdivision (b) of
23 Section 12801 shall not apply to the infrequent loan of an unloaded
24 firearm by a person who is neither a dealer as defined in Section
25 12071 nor a federal firearms licensee pursuant to Chapter 44
26 (commencing with Section 921) of Title 18 of the United States
27 Code, to a person 18 years of age or older for use solely as a prop
28 in a motion picture, television, video, theatrical, or other
29 entertainment production or event.

30 (2) Subdivision (d), and paragraph (1) of subdivision (f), of
31 Section 12072, and subdivision (b) of Section 12801 shall not
32 apply to the loan of an unloaded firearm by a person who is not a
33 dealer as defined in Section 12071 but who is a federal firearms
34 licensee pursuant to Chapter 44 (commencing with Section 921)
35 of Title 18 of the United States Code, to a person who possesses
36 a valid entertainment firearms permit issued pursuant to Section
37 12081, for use solely as a prop in a motion picture, television,
38 video, theatrical, or other entertainment production or event. The
39 person loaning the firearm pursuant to this paragraph shall retain

1 a photocopy of the entertainment firearms permit as proof of
2 compliance with this requirement.

3 (3) Subdivision (b) of Section 12071, subdivision (c) of, and
4 paragraph (1) of subdivision (f) of, Section 12072, and subdivision
5 (b) of Section 12801 shall not apply to the loan of an unloaded
6 firearm by a dealer as defined in Section 12071, to a person who
7 possesses a valid entertainment firearms permit issued pursuant
8 to Section 12081, for use solely as a prop in a motion picture,
9 television, video, theatrical, or other entertainment production or
10 event. The dealer shall retain a photocopy of the entertainment
11 firearms permit as proof of compliance with this requirement.

12 (4) Subdivision (b) of Section 12071, subdivision (c) and
13 paragraph (1) of subdivision (f) of Section 12072, and subdivision
14 (b) of Section 12801 shall not apply to the loan of an unloaded
15 firearm to a consultant-evaluator by a person licensed pursuant to
16 Section 12071 if the loan does not exceed 45 days from the date
17 of delivery. At the time of the loan, the consultant-evaluator shall
18 provide the following information, which the dealer shall retain
19 for two years:

20 (A) A photocopy of a valid, current, government-issued
21 identification to determine the consultant-evaluator's identity,
22 including, but not limited to, a California driver's license,
23 identification card, or passport.

24 (B) A photocopy of the consultant-evaluator's valid, current
25 certificate of eligibility.

26 (C) A letter from the person licensed as an importer,
27 manufacturer, or dealer pursuant to Chapter 44 (commencing with
28 Section 921) of Title 18 of the United States Code, with whom the
29 consultant-evaluator has a bona fide business relationship. The
30 letter shall detail the bona fide business purposes for which the
31 firearm is being loaned and confirm that the consultant-evaluator
32 is being loaned the firearm as part of a bona fide business
33 relationship.

34 (D) The signature of the consultant-evaluator on a form
35 indicating the date the firearm is loaned and the last day the firearm
36 may be returned.

37 (t) (1) The waiting periods described in Sections 12071 and
38 12072 shall not apply to the sale, delivery, loan, or transfer of a
39 firearm that is a curio or relic, as defined in Section 478.11 of Title
40 27 of the Code of Federal Regulations, or its successor, by a dealer

1 to a person who is licensed as a collector pursuant to Chapter 44
2 (commencing with Section 921) of Title 18 of the United States
3 Code and the regulations issued pursuant thereto who has a current
4 certificate of eligibility issued to him or her by the Department of
5 Justice pursuant to Section 12071. On the date that the delivery,
6 sale, or transfer is made, the dealer delivering the firearm shall
7 transmit to the Department of Justice an electronic or telephonic
8 report of the transaction as is indicated in subdivision (b) or (c) of
9 Section 12077.

10 (2) Subdivision (d) and paragraph (1) of subdivision (f) of
11 Section 12072 shall not apply to the infrequent sale, loan, or
12 transfer of a firearm that is not a handgun, which is a curio or relic
13 manufactured at least 50 years prior to the current date, but not
14 including replicas thereof, as defined in Section 478.11 of Title
15 27 of the Code of Federal Regulations, or its successor.

16 (u) As used in this section:

17 (1) “Infrequent” has the same meaning as in paragraph (1) of
18 subdivision (c) of Section 12070.

19 (2) “A person taking title or possession of firearms by operation
20 of law” includes, but is not limited to, any of the following
21 instances wherein an individual receives title to, or possession of,
22 firearms:

23 (A) The executor or administrator of an estate if the estate
24 includes firearms.

25 (B) A secured creditor or an agent or employee thereof when
26 the firearms are possessed as collateral for, or as a result of, a
27 default under a security agreement under the Commercial Code.

28 (C) A levying officer, as defined in Section 481.140, 511.060,
29 or 680.260 of the Code of Civil Procedure.

30 (D) A receiver performing his or her functions as a receiver if
31 the receivership estate includes firearms.

32 (E) A trustee in bankruptcy performing his or her duties if the
33 bankruptcy estate includes firearms.

34 (F) An assignee for the benefit of creditors performing his or
35 her functions as an assignee, if the assignment includes firearms.

36 (G) A transmutation of property consisting of firearms pursuant
37 to Section 850 of the Family Code.

38 (H) Firearms passing to a surviving spouse pursuant to Chapter
39 1 (commencing with Section 13500) of Part 2 of Division 8 of the
40 Probate Code.

1 (I) Firearms received by the family of a police officer or deputy
2 sheriff from a local agency pursuant to Section 50081 of the
3 Government Code.

4 (J) The transfer of a firearm by a law enforcement agency to
5 the person who found the firearm where the delivery is to the
6 person as the finder of the firearm pursuant to Article 1
7 (commencing with Section 2080) of Chapter 4 of Division 3 of
8 the Civil Code.

9 *SEC. 3.5. Section 12078 of the Penal Code is amended to read:*

10 12078. (a) (1) The waiting periods described in Sections 12071
11 and 12072 shall not apply to the deliveries, transfers, or sales of
12 firearms made to persons properly identified as full-time paid peace
13 officers as defined in Chapter 4.5 (commencing with Section 830)
14 of Title 3 of Part 2, provided that the peace officers are authorized
15 by their employer to carry firearms while in the performance of
16 their duties. Proper identification is defined as verifiable written
17 certification from the head of the agency by which the purchaser
18 or transferee is employed, identifying the purchaser or transferee
19 as a peace officer who is authorized to carry firearms while in the
20 performance of his or her duties, and authorizing the purchase or
21 transfer. The certification shall be delivered to the dealer at the
22 time of purchase or transfer and the purchaser or transferee shall
23 identify himself or herself as the person authorized in the
24 certification. The dealer shall keep the certification with the record
25 of sale. On the date that the delivery, sale, or transfer is made, the
26 dealer delivering the firearm shall transmit to the Department of
27 Justice an electronic or telephonic report of the transaction as is
28 indicated in subdivision (b) or (c) of Section 12077.

29 (2) Subdivision (b) of Section 12801 and the preceding
30 provisions of this article do not apply to deliveries, transfers, or
31 sales of firearms made to authorized law enforcement
32 representatives of cities, counties, cities and counties, or state or
33 federal governments for exclusive use by those governmental
34 agencies if, prior to the delivery, transfer, or sale of these firearms,
35 written authorization from the head of the agency authorizing the
36 transaction is presented to the person from whom the purchase,
37 delivery, or transfer is being made. Proper written authorization
38 is defined as verifiable written certification from the head of the
39 agency by which the purchaser or transferee is employed,
40 identifying the employee as an individual authorized to conduct

1 the transaction, and authorizing the transaction for the exclusive
2 use of the agency by which he or she is employed. Within 10 days
3 of the date a handgun is acquired by the agency, a record of the
4 same shall be entered as an institutional weapon into the Automated
5 Firearms System (AFS) via the California Law Enforcement
6 Telecommunications System (CLETS) by the law enforcement or
7 state agency. Those agencies without access to AFS shall arrange
8 with the sheriff of the county in which the agency is located to
9 input this information via this system.

10 (3) Subdivision (b) of Section 12801 and the preceding
11 provisions of this article do not apply to the loan of a firearm made
12 by an authorized law enforcement representative of a city, county,
13 or city and county, or the state or federal government to a peace
14 officer employed by that agency and authorized to carry a firearm
15 for the carrying and use of that firearm by that peace officer in the
16 course and scope of his or her duties.

17 (4) Subdivision (b) of Section 12801 and the preceding
18 provisions of this article do not apply to the delivery, sale, or
19 transfer of a firearm by a law enforcement agency to a peace officer
20 pursuant to Section 10334 of the Public Contract Code. Within 10
21 days of the date that a handgun is sold, delivered, or transferred
22 pursuant to Section 10334 of the Public Contract Code to that
23 peace officer, the name of the officer and the make, model, serial
24 number, and other identifying characteristics of the firearm being
25 sold, transferred, or delivered shall be entered into the Automated
26 Firearms System (AFS) via the California Law Enforcement
27 Telecommunications System (CLETS) by the law enforcement or
28 state agency that sold, transferred, or delivered the firearm. Those
29 agencies without access to AFS shall arrange with the sheriff of
30 the county in which the agency is located to input this information
31 via this system.

32 (5) Subdivision (b) of Section 12801 and the preceding
33 provisions of this article do not apply to the delivery, sale, or
34 transfer of a firearm by a law enforcement agency to a retiring
35 peace officer who is authorized to carry a firearm pursuant to
36 Section 12027.1. Within 10 days of the date that a handgun is sold,
37 delivered, or transferred to that retiring peace officer, the name of
38 the officer and the make, model, serial number, and other
39 identifying characteristics of the firearm being sold, transferred,
40 or delivered shall be entered into the Automated Firearms System

(AFS) via the California Law Enforcement Telecommunications System (CLETS) by the law enforcement or state agency that sold, transferred, or delivered the firearm. Those agencies without access to AFS shall arrange with the sheriff of the county in which the agency is located to input this information via this system.

(6) Subdivision (d) of Section 12072 and subdivision (b) of Section 12801 do not apply to sales, deliveries, or transfers of firearms to authorized representatives of cities, cities and counties, counties, or state or federal governments for those governmental agencies where the entity is acquiring the weapon as part of an authorized, voluntary program where the entity is buying or receiving weapons from private individuals. Any weapons acquired pursuant to this paragraph shall be disposed of pursuant to the applicable provisions of Section 12028 or 12032.

(7) Subdivision (d) of Section 12072 and subdivision (b) of Section 12801 shall not apply to the sale, loan, delivery, or transfer of a firearm made by an authorized law enforcement representative of a city, county, city and county, state, or the federal government to any public or private nonprofit historical society, museum, or institutional collection or the purchase or receipt of that firearm by that public or private nonprofit historical society, museum, or institutional collection if all of the following conditions are met:

(A) The entity receiving the firearm is open to the public.

(B) The firearm prior to delivery is deactivated or rendered inoperable.

(C) The firearm is not subject to Section 12028, 12028.5, 12030, or 12032.

(D) The firearm is not prohibited by other provisions of law from being sold, delivered, or transferred to the public at large.

(E) Prior to delivery, the entity receiving the firearm submits a written statement to the law enforcement representative stating that the firearm will not be restored to operating condition, and will either remain with that entity, or if subsequently disposed of, will be transferred in accordance with the applicable provisions of this article and, if applicable, Section 12801.

(F) Within 10 days of the date that the firearm is sold, loaned, delivered, or transferred to that entity, the name of the government entity delivering the firearm, and the make, model, serial number, and other identifying characteristics of the firearm and the name of the person authorized by the entity to take possession of the

1 firearm shall be reported to the department in a manner prescribed
2 by the department.

3 (G) In the event of a change in the status of the designated
4 representative, the entity shall notify the department of a new
5 representative within 30 days.

6 (8) Subdivision (d) of Section 12072 and subdivision (b) of
7 Section 12801 shall not apply to the sale, loan, delivery, or transfer
8 of a firearm made by any person other than a representative of an
9 authorized law enforcement agency to any public or private
10 nonprofit historical society, museum, or institutional collection if
11 all of the following conditions are met:

12 (A) The entity receiving the firearm is open to the public.

13 (B) The firearm is deactivated or rendered inoperable prior to
14 delivery.

15 (C) The firearm is not of a type prohibited from being sold,
16 delivered, or transferred to the public.

17 (D) Prior to delivery, the entity receiving the firearm submits a
18 written statement to the person selling, loaning, or transferring the
19 firearm stating that the firearm will not be restored to operating
20 condition, and will either remain with that entity, or if subsequently
21 disposed of, will be transferred in accordance with the applicable
22 provisions of this article and, if applicable, Section 12801.

23 (E) If title to a handgun is being transferred to the public or
24 private nonprofit historical society, museum, or institutional
25 collection, then the designated representative of that public or
26 private historical society, museum, or institutional collection,
27 within 30 days of taking possession of that handgun, shall forward
28 by prepaid mail or deliver in person to the Department of Justice,
29 a single report signed by both parties to the transaction, that
30 includes information identifying the person representing that public
31 or private historical society, museum, or institutional collection,
32 how title was obtained and from whom, and a description of the
33 firearm in question, along with a copy of the written statement
34 referred to in subparagraph (D). The report forms that are to be
35 completed pursuant to this paragraph shall be provided by the
36 Department of Justice.

37 (F) In the event of a change in the status of the designated
38 representative, the entity shall notify the department of a new
39 representative within 30 days.

(9) Section 12070, subdivision (d) of Section 12072, and subdivision (b) of Section 12801 do not apply to the delivery, sale, or transfer of firearms when made by authorized law enforcement representatives of cities, counties, cities and counties, or of the state or federal government, if all of the following conditions are met:

(A) The sale, delivery, or transfer is made to one of the following:

(i) A person licensed pursuant to Section 12071.

(ii) A wholesaler.

(iii) A manufacturer or importer of firearms licensed to engage in that business pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(B) The sale, delivery, or transfer of the firearm is not subject to the procedures set forth in Section 12028, 12030, or 12032.

(C) Where the sale, delivery, or transfer is of a handgun, on the date that the handgun is delivered pursuant to this subdivision by the agency, a record of the delivery has been entered into the Automated Firearms System (AFS) via the California Law Enforcement Telecommunications System (CLETS) by the law enforcement or state agency. Those agencies without access to AFS shall arrange with the sheriff of the county in which the agency is located to input this information via this system.

(10) Any agency that is the registered owner of an institutional weapon in accordance with paragraph (2), which subsequently destroys the same, shall enter that information into the AFS via CLETS within 10 days of the destruction in accordance with procedures prescribed by the Department of Justice. Agencies without access to AFS shall arrange with the sheriff of the county in which the agency is located to input this information via this system.

(b) (1) Section 12071, subdivisions (c) and (d) of Section 12072, and subdivision (b) of Section 12801 shall not apply to deliveries, sales, or transfers of firearms between or to importers and manufacturers of firearms licensed to engage in that business pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

1 (2) Subdivision (b) of Section 12801 shall not apply to the
2 delivery, sale, or transfer of a handgun to a person licensed pursuant
3 to Section 12071, where the licensee is receiving the handgun in
4 the course and scope of his or her activities as a person licensed
5 pursuant to Section 12071.

6 (c) (1) Subdivision (d) of Section 12072 shall not apply to the
7 infrequent transfer of a firearm that is not a handgun by gift,
8 bequest, intestate succession, or other means by one individual to
9 another if both individuals are members of the same immediate
10 family.

11 (2) Subdivision (d) of Section 12072 shall not apply to the
12 infrequent transfer of a handgun by gift, bequest, intestate
13 succession, or other means by one individual to another if both
14 individuals are members of the same immediate family and all of
15 the following conditions are met:

16 (A) The person to whom the firearm is transferred shall, within
17 30 days of taking possession of the firearm, forward by prepaid
18 mail or deliver in person to the Department of Justice, a report that
19 includes information concerning the individual taking possession
20 of the firearm, how title was obtained and from whom, and a
21 description of the firearm in question. The report forms that
22 individuals complete pursuant to this paragraph shall be provided
23 to them by the Department of Justice.

24 (B) The person taking title to the firearm shall first obtain a
25 handgun safety certificate.

26 (C) The person receiving the firearm is 18 years of age or older.

27 (3) As used in this subdivision, "immediate family member"
28 means any one of the following relationships:

29 (A) Parent and child.

30 (B) Grandparent and grandchild.

31 (d) (1) Subdivision (d) of Section 12072 shall not apply to the
32 infrequent loan of firearms between persons who are personally
33 known to each other for any lawful purpose, if the loan does not
34 exceed 30 days in duration and, when the firearm is a handgun,
35 commencing January 1, 2003, the individual being loaned the
36 handgun has a valid handgun safety certificate.

37 (2) Subdivision (d) of Section 12072, and subdivision (b) of
38 Section 12801 shall not apply to the loan of a firearm where all of
39 the following conditions exist:

1 (A) The person loaning the firearm is at all times within the
2 presence of the person being loaned the firearm.

3 (B) The loan is for a lawful purpose.

4 (C) The loan does not exceed three days in duration.

5 (D) The individual receiving the firearm is not prohibited by
6 state or federal law from possessing, receiving, owning, or
7 purchasing a firearm.

8 (E) The person loaning the firearm is 18 years of age or older.

9 (F) The person being loaned the firearm is 18 years of age or
10 older.

11 (e) (1) Section 12071, subdivisions (c) and (d) *and paragraph*
12 *(1) of subdivision (f) of Section 12072, and subdivision (b) of*
13 *Section 12801 shall not apply to the delivery of a firearm to a*
14 *gunsmith for service or repair, or to the return of the firearm to its*
15 *owner by the gunsmith, or to the delivery of a firearm by a*
16 *gunsmith to a person licensed pursuant to Chapter 44 (commencing*
17 *with Section 921) of Title 18 of the United States Code for service*
18 *or repair and the return of the firearm to the gunsmith.*

19 (2) *Paragraph (1) of subdivision (f) of Section 12072 shall not*
20 *apply to the delivery, sale, or transfer of any firearm in any of the*
21 *following circumstances:*

22 (A) *Where the transferor and the transferee are the same person*
23 *or corporation.*

24 (B) *Where the transfer is to or from a person who has a valid*
25 *entertainment firearms permit under Section 12081 and the transfer*
26 *involves the loan or return of firearms used solely as props in*
27 *television, film, or theatrical productions.*

28 (f) Subdivision (d) of Section 12072 and subdivision (b) of
29 Section 12801 shall not apply to the sale, delivery, or transfer of
30 firearms by persons who reside in this state to persons who reside
31 outside this state who are licensed pursuant to Chapter 44
32 (commencing with Section 921) of Title 18 of the United States
33 Code and the regulations issued pursuant thereto, if the sale,
34 delivery, or transfer is in accordance with Chapter 44 (commencing
35 with Section 921) of Title 18 of the United States Code and the
36 regulations issued pursuant thereto.

37 (g) (1) Subdivision (d) of Section 12072 shall not apply to the
38 infrequent sale or transfer of a firearm, other than a handgun, at
39 auctions or similar events conducted by nonprofit mutual or public
40 benefit corporations organized pursuant to the Corporations Code.

1 As used in this paragraph, the term “infrequent” shall not be
2 construed to prohibit different local chapters of the same nonprofit
3 corporation from conducting auctions or similar events, provided
4 the individual local chapter conducts the auctions or similar events
5 infrequently. It is the intent of the Legislature that different local
6 chapters, representing different localities, be entitled to invoke the
7 exemption created by this paragraph, notwithstanding the frequency
8 with which other chapters of the same nonprofit corporation may
9 conduct auctions or similar events.

10 (2) Subdivision (d) of Section 12072 shall not apply to the
11 transfer of a firearm other than a handgun, if the firearm is donated
12 for an auction or similar event described in paragraph (1) and the
13 firearm is delivered to the nonprofit corporation immediately
14 preceding, or contemporaneous with, the auction or similar event.

15 (3) The waiting period described in Sections 12071 and 12072
16 shall not apply to a dealer who delivers a firearm other than a
17 handgun at an auction or similar event described in paragraph (1),
18 as authorized by subparagraph (C) of paragraph (1) of subdivision
19 (b) of Section 12071. Within two business days of completion of
20 the application to purchase, the dealer shall forward by prepaid
21 mail to the Department of Justice a report of the same as is
22 indicated in subdivision (c) of Section 12077. If the electronic or
23 telephonic transfer of applicant information is used, within two
24 business days of completion of the application to purchase, the
25 dealer delivering the firearm shall transmit to the Department of
26 Justice an electronic or telephonic report of the same as is indicated
27 in subdivision (c) of Section 12077.

28 (h) Subdivision (d) of Section 12072 and subdivision (b) of
29 Section 12801 shall not apply to the loan of a firearm to a person
30 18 years of age or older for the purposes of shooting at targets if
31 the loan occurs on the premises of a target facility that holds a
32 business or regulatory license or on the premises of any club or
33 organization organized for the purposes of practicing shooting at
34 targets upon established ranges, whether public or private, if the
35 firearm is at all times kept within the premises of the target range
36 or on the premises of the club or organization.

37 (i) (1) Subdivision (d) of Section 12072 shall not apply to a
38 person who takes title or possession of a firearm that is not a
39 handgun by operation of law if the person is not prohibited by state

1 or federal law from possessing, receiving, owning, or purchasing
2 a firearm.

3 (2) Subdivision (d) of Section 12072 shall not apply to a person
4 who takes title or possession of a handgun by operation of law if
5 the person is not prohibited by state or federal law from possessing,
6 receiving, owning, or purchasing a firearm and all of the following
7 conditions are met:

8 (A) If the person taking title or possession is neither a levying
9 officer as defined in Section 481.140, 511.060, or 680.210 of the
10 Code of Civil Procedure, nor a person who is receiving that firearm
11 pursuant to subparagraph (G), (I), or (J) of paragraph (2) of
12 subdivision (u), the person shall, within 30 days of taking
13 possession, forward by prepaid mail or deliver in person to the
14 Department of Justice, a report of information concerning the
15 individual taking possession of the firearm, how title or possession
16 was obtained and from whom, and a description of the firearm in
17 question. The reports that individuals complete pursuant to this
18 paragraph shall be provided to them by the department.

19 (B) If the person taking title or possession is receiving the
20 firearm pursuant to subparagraph (G) of paragraph (2) of
21 subdivision (u), the person shall do both of the following:

22 (i) Within 30 days of taking possession, forward by prepaid
23 mail or deliver in person to the department, a report of information
24 concerning the individual taking possession of the firearm, how
25 title or possession was obtained and from whom, and a description
26 of the firearm in question. The reports that individuals complete
27 pursuant to this paragraph shall be provided to them by the
28 department.

29 (ii) Prior to taking title or possession of the firearm, the person
30 shall obtain a handgun safety certificate.

31 (C) Where the person receiving title or possession of the
32 handgun is a person described in subparagraph (I) of paragraph
33 (2) of subdivision (u), on the date that the person is delivered the
34 firearm, the name and other information concerning the person
35 taking possession of the firearm, how title or possession of the
36 firearm was obtained and from whom, and a description of the
37 firearm by make, model, serial number, and other identifying
38 characteristics; shall be entered into the Automated Firearms
39 System (AFS) via the California Law Enforcement
40 Telecommunications System (CLETS) by the law enforcement or

1 state agency that transferred or delivered the firearm. Those
2 agencies without access to AFS shall arrange with the sheriff of
3 the county in which the agency is located to input this information
4 via this system.

5 (D) Where the person receiving title or possession of the
6 handgun is a person described in subparagraph (J) of paragraph
7 (2) of subdivision (u), on the date that the person is delivered the
8 firearm, the name and other information concerning the person
9 taking possession of the firearm, how title or possession of the
10 firearm was obtained and from whom, and a description of the
11 firearm by make, model, serial number, and other identifying
12 characteristics; shall be entered into the AFS via the CLETS by
13 the law enforcement or state agency that transferred or delivered
14 the firearm. Those agencies without access to AFS shall arrange
15 with the sheriff of the county in which the agency is located to
16 input this information via this system. In addition, that law
17 enforcement agency shall not deliver that handgun to the person
18 referred to in this subparagraph unless, prior to the delivery of the
19 same, the person presents proof to the agency that he or she is the
20 holder of a handgun safety certificate.

21 (3) Subdivision (d) of Section 12072 shall not apply to a person
22 who takes possession of a firearm by operation of law in a
23 representative capacity who subsequently transfers ownership of
24 the firearm to himself or herself in his or her individual capacity.
25 In the case of a handgun, the individual shall obtain a handgun
26 safety certificate prior to transferring ownership to himself or
27 herself, or taking possession of a handgun in an individual capacity.
28 (j) Subdivision (d) of Section 12072 and subdivision (b) of
29 Section 12801 shall not apply to deliveries, transfers, or returns
30 of firearms made pursuant to Section 12021.3, 12028, 12028.5, or
31 12030.

32 (k) Section 12071, subdivision (c) of Section 12072, and
33 subdivision (b) of Section 12801 shall not apply to any of the
34 following:

35 (1) The delivery, sale, or transfer of unloaded firearms that are
36 not handguns by a dealer to another dealer upon proof of
37 compliance with the requirements of paragraph (1) of subdivision
38 (f) of Section 12072.

39 (2) The delivery, sale, or transfer of unloaded firearms by dealers
40 to persons who reside outside this state who are licensed pursuant

1 to Chapter 44 (commencing with Section 921) of Title 18 of the
2 United States Code and the regulations issued pursuant thereto.

3 (3) The delivery, sale, or transfer of unloaded firearms to a
4 wholesaler if the firearms are being returned to the wholesaler and
5 are intended as merchandise in the wholesaler's business.

6 (4) The delivery, sale, or transfer of unloaded firearms by one
7 dealer to another dealer if the firearms are intended as merchandise
8 in the receiving dealer's business upon proof of compliance with
9 the requirements of paragraph (1) of subdivision (f) of Section
10 12072.

11 (5) The delivery, sale, or transfer of an unloaded firearm that is
12 not a handgun by a dealer to himself or herself.

13 (6) The loan of an unloaded firearm by a dealer who also
14 operates a target facility that holds a business or regulatory license
15 on the premises of the building designated in the license or whose
16 building designated in the license is on the premises of any club
17 or organization organized for the purposes of practicing shooting
18 at targets upon established ranges, whether public or private, to a
19 person at that target facility or that club or organization, if the
20 firearm is at all times kept within the premises of the target range
21 or on the premises of the club or organization.

22 (l) A person who is exempt from subdivision (d) of Section
23 12072 or is otherwise not required by law to report his or her
24 acquisition, ownership, *destruction*, or disposal of a ~~handgun~~
25 *firearm* or who moves out of this state with his or her ~~handgun~~
26 *firearm* may submit a report of the same to the Department of
27 Justice in a format prescribed by the department.

28 (m) Subdivision (d) of Section 12072 and subdivision (b) of
29 Section 12801 shall not apply to the delivery, sale, or transfer of
30 unloaded firearms to a wholesaler as merchandise in the
31 wholesaler's business by manufacturers or importers licensed to
32 engage in that business pursuant to Chapter 44 (commencing with
33 Section 921) of Title 18 of the United States Code and the
34 regulations issued pursuant thereto, or by another wholesaler, if
35 the delivery, sale, or transfer is made in accordance with Chapter
36 44 (commencing with Section 921) of Title 18 of the United States
37 Code.

38 (n) (1) The waiting period described in Section 12071 or 12072
39 shall not apply to the delivery, sale, or transfer of a handgun by a
40 dealer in either of the following situations:

1 (A) The dealer is delivering the firearm to another dealer and
2 it is not intended as merchandise in the receiving dealer's business.

3 (B) The dealer is delivering the firearm to himself or herself
4 and it is not intended as merchandise in his or her business.

5 (2) In order for this subdivision to apply, both of the following
6 shall occur:

7 (A) If the dealer is receiving the firearm from another dealer,
8 the dealer receiving the firearm shall present proof to the dealer
9 delivering the firearm that he or she is licensed pursuant to Section
10 12071 by complying with paragraph (1) of subdivision (f) of
11 Section 12072.

12 (B) Whether the dealer is delivering, selling, or transferring the
13 firearm to himself or herself or to another dealer, on the date that
14 the application to purchase is completed, the dealer delivering the
15 firearm shall forward by prepaid mail to the Department of Justice
16 a report of the same and the type of information concerning the
17 purchaser or transferee as is indicated in subdivision (b) of Section
18 12077. Where the electronic or telephonic transfer of applicant
19 information is used, on the date that the application to purchase is
20 completed, the dealer delivering the firearm shall transmit an
21 electronic or telephonic report of the same and the type of
22 information concerning the purchaser or transferee as is indicated
23 in subdivision (b) of Section 12077.

24 (o) Section 12071 and subdivisions (c); ~~and (d); and paragraph~~
25 ~~(1) of subdivision (f) of Section 12072 shall not apply to the~~
26 ~~delivery, sale, or transfer of firearms~~ *a firearm* regulated pursuant
27 to Section 12020, Chapter 2 (commencing with Section 12200),
28 ~~or Chapter 2.3 (commencing with Section 12275), or Chapter 2.5~~
29 ~~(commencing with Section 12301), if the delivery, sale, or transfer~~
30 ~~of that firearm is conducted in accordance with the applicable~~
31 ~~provisions of Section 12020, Chapter 2 (commencing with Section~~
32 ~~12200), or Chapter 2.3 (commencing with Section 12275), or~~
33 ~~Chapter 2.5 (commencing with Section 12301).~~

34 (p) (1) Paragraph (3) of subdivision (a) and subdivision (d) of
35 Section 12072 shall not apply to the loan of a firearm that is not a
36 handgun to a minor, with the express permission of the parent or
37 legal guardian of the minor, if the loan does not exceed 30 days
38 in duration and is for a lawful purpose.

39 (2) Paragraph (3) of subdivision (a) of Section 12072,
40 subdivision (d) of Section 12072, and subdivision (b) of Section

1 12801 shall not apply to the loan of a handgun to a minor by a
2 person who is not the parent or legal guardian of the minor if all
3 of the following circumstances exist:

4 (A) The minor has the written consent of his or her parent or
5 legal guardian that is presented at the time of, or prior to the time
6 of, the loan, or is accompanied by his or her parent or legal
7 guardian at the time the loan is made.

8 (B) The minor is being loaned the firearm for the purpose of
9 engaging in a lawful, recreational sport, including, but not limited
10 to, competitive shooting, or agricultural, ranching, or hunting
11 activity, or a motion picture, television, or video production, or
12 entertainment or theatrical event, the nature of which involves the
13 use of a firearm.

14 (C) The duration of the loan does not exceed the amount of time
15 that is reasonably necessary to engage in the lawful, recreational
16 sport, including, but not limited to, competitive shooting, or
17 agricultural, ranching, or hunting activity, or a motion picture,
18 television, or video production, or entertainment or theatrical event,
19 the nature of which involves the use of a firearm.

20 (D) The duration of the loan does not, in any event, exceed 10
21 days.

22 (3) Paragraph (3) of subdivision (a), and subdivision (d), of
23 Section 12072, and subdivision (b) of Section 12801 shall not
24 apply to the loan of a handgun to a minor by his or her parent or
25 legal guardian if both of the following circumstances exist:

26 (A) The minor is being loaned the firearm for the purposes of
27 engaging in a lawful, recreational sport, including, but not limited
28 to, competitive shooting, or agricultural, ranching, or hunting
29 activity, or a motion picture, television, or video production, or
30 entertainment or theatrical event, the nature of which involves the
31 use of a firearm.

32 (B) The duration of the loan does not exceed the amount of time
33 that is reasonably necessary to engage in the lawful, recreational
34 sport, including, but not limited to, competitive shooting, or
35 agricultural, ranching, or hunting activity, or a motion picture,
36 television, or video production, or entertainment or theatrical event,
37 the nature of which involves the use of a firearm.

38 (4) Paragraph (3) of subdivision (a), and subdivision (d), of
39 Section 12072 shall not apply to the transfer or loan of a firearm

1 that is not a handgun to a minor by his or her parent or legal
2 guardian.

3 (5) Paragraph (3) of subdivision (a), and subdivision (d), of
4 Section 12072 shall not apply to the transfer or loan of a firearm
5 that is not a handgun to a minor by his or her grandparent who is
6 not the legal guardian of the minor if the transfer is done with the
7 express permission of the parent or legal guardian of the minor.

8 (6) Subparagraph (A) of paragraph (3) of subdivision (a) of
9 Section 12072 shall not apply to the sale of a handgun if both of
10 the following requirements are satisfied:

11 (A) The sale is to a person who is at least 18 years of age.

12 (B) The firearm is an antique firearm as defined in paragraph
13 (16) of subsection (a) of Section 921 of Title 18 of the United
14 States Code.

15 (q) Subdivision (d) of Section 12072 shall not apply to the loan
16 of a firearm that is not a handgun to a licensed hunter for use by
17 that licensed hunter for a period of time not to exceed the duration
18 of the hunting season for which that firearm is to be used.

19 (r) The waiting period described in Section 12071 or 12072
20 shall not apply to the delivery, sale, or transfer of a firearm to the
21 holder of a special weapons permit issued by the Department of
22 Justice issued pursuant to Section 12095, 12230, 12250, or 12305.
23 On the date that the application to purchase is completed, the dealer
24 delivering the firearm shall transmit to the Department of Justice
25 an electronic or telephonic report of the same as is indicated in
26 subdivision (b) or (c) of Section 12077.

27 (s) (1) Subdivision (d) of Section 12072 and subdivision (b) of
28 Section 12801 shall not apply to the infrequent loan of an unloaded
29 firearm by a person who is neither a dealer as defined in Section
30 12071 nor a federal firearms licensee pursuant to Chapter 44
31 (*commencing with Section 921*) of Title 18 of the United States
32 Code, to a person 18 years of age or older for use solely as a prop
33 in a motion picture, television, video, theatrical, or other
34 entertainment production or event.

35 (2) Subdivision (d), and paragraph (1) of subdivision (f), of
36 Section 12072, and subdivision (b) of Section 12801 shall not
37 apply to the loan of an unloaded firearm by a person who is not a
38 dealer as defined in Section 12071 but who is a federal firearms
39 licensee pursuant to Chapter 44 (*commencing with Section 921*)
40 of Title 18 of the United States Code, to a person who possesses

1 a valid entertainment firearms permit issued pursuant to Section
2 12081, for use solely as a prop in a motion picture, television,
3 video, theatrical, or other entertainment production or event. The
4 person loaning the firearm pursuant to this paragraph shall retain
5 a photocopy of the entertainment firearms permit as proof of
6 compliance with this requirement.

7 (3) Subdivision (b) of Section 12071, subdivision (c) of, and
8 paragraph (1) of subdivision (f) of, Section 12072, and subdivision
9 (b) of Section 12801 shall not apply to the loan of an unloaded
10 firearm by a dealer as defined in Section 12071, to a person who
11 possesses a valid entertainment firearms permit issued pursuant
12 to Section 12081, for use solely as a prop in a motion picture,
13 television, video, theatrical, or other entertainment production or
14 event. The dealer shall retain a photocopy of the entertainment
15 firearms permit as proof of compliance with this requirement.

16 (4) Subdivision (b) of Section 12071, subdivision (c) and
17 paragraph (1) of subdivision (f) of Section 12072, and subdivision
18 (b) of Section 12801 shall not apply to the loan of an unloaded
19 firearm to a consultant-evaluator by a person licensed pursuant to
20 Section 12071 if the loan does not exceed 45 days from the date
21 of delivery. At the time of the loan, the consultant-evaluator shall
22 provide the following information, which the dealer shall retain
23 for two years:

24 (A) A photocopy of a valid, current, government-issued
25 identification to determine the consultant-evaluator's identity,
26 including, but not limited to, a California driver's license,
27 identification card, or passport.

28 (B) A photocopy of the consultant-evaluator's valid, current
29 certificate of eligibility.

30 (C) A letter from the person licensed as an importer,
31 manufacturer, or dealer pursuant to Chapter 44 (commencing with
32 Section 921) of Title 18 of the United States Code, with whom the
33 consultant-evaluator has a bona fide business relationship. The
34 letter shall detail the bona fide business purposes for which the
35 firearm is being loaned and confirm that the consultant-evaluator
36 is being loaned the firearm as part of a bona fide business
37 relationship.

38 (D) The signature of the consultant-evaluator on a form
39 indicating the date the firearm is loaned and the last day the firearm
40 may be returned.

(t) (1) The waiting ~~period~~ *periods* described in ~~Section~~ *Sections* 12071 ~~or~~ and 12072 shall not apply to the sale, delivery, loan, or transfer of a firearm that is a curio or relic, as defined in Section 478.11 of Title 27 of the Code of Federal Regulations, or its successor, by a dealer to a person who is licensed as a collector pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto who has a current certificate of eligibility issued to him or her by the Department of Justice pursuant to Section 12071. On the date that the delivery, sale, or transfer is made, the dealer delivering the firearm shall transmit to the Department of Justice an electronic or telephonic report of the transaction as is indicated in subdivision (b) or (c) of Section 12077.

(2) Subdivision (d) and paragraph (1) of subdivision (f) of Section 12072 shall not apply to the infrequent sale, loan, or transfer of a firearm that is not a handgun, which is a curio or relic manufactured at least 50 years prior to the current date, but not including replicas thereof, as defined in Section 478.11 of Title 27 of the Code of Federal Regulations, or its successor.

(u) As used in this section:

(1) “Infrequent” has the same meaning as in paragraph (1) of subdivision (c) of Section 12070.

(2) “A person taking title or possession of firearms by operation of law” includes, but is not limited to, any of the following instances wherein an individual receives title to, or possession of, firearms:

(A) The executor or administrator of an estate if the estate includes firearms.

(B) A secured creditor or an agent or employee thereof when the firearms are possessed as collateral for, or as a result of, a default under a security agreement under the Commercial Code.

(C) A levying officer, as defined in Section 481.140, 511.060, or 680.260 of the Code of Civil Procedure.

(D) A receiver performing his or her functions as a receiver if the receivership estate includes firearms.

(E) A trustee in bankruptcy performing his or her duties if the bankruptcy estate includes firearms.

(F) An assignee for the benefit of creditors performing his or her functions as an assignee, if the assignment includes firearms.

1 (G) A transmutation of property consisting of firearms pursuant
2 to Section 850 of the Family Code.

3 (H) Firearms passing to a surviving spouse pursuant to Chapter
4 1 (commencing with Section 13500) of Part 2 of Division 8 of the
5 Probate Code.

6 (I) Firearms received by the family of a police officer or deputy
7 sheriff from a local agency pursuant to Section 50081 of the
8 Government Code.

9 (J) The transfer of a firearm by a law enforcement agency to
10 the person who found the firearm where the delivery is to the
11 person as the finder of the firearm pursuant to Article 1
12 (commencing with Section 2080) of Chapter 4 of Division 3 of
13 the Civil Code.

14 SEC. 4. Section 12083 of the Penal Code is amended to read:

15 12083. (a) Commencing January 1, 2008, the Department of
16 Justice shall keep a centralized list of persons who identify
17 themselves as being licensed pursuant to Chapter 44 (commencing
18 with Section 921) of Title 18 of the United States Code as a dealer,
19 importer, or manufacturer of firearms whose licensed premises
20 are within this state and who declare to the department an
21 exemption from the firearms dealer licensing requirements of
22 Section 12070. The list shall be known as the centralized list of
23 exempted federal firearms licensees. To qualify for placement on
24 the centralized list, an applicant shall do all of the following:

25 (1) Possess a valid federal firearms license pursuant to Chapter
26 44 (commencing with Section 921) of Title 18 of the United States
27 Code as a dealer, importer, or manufacturer of firearms.

28 (2) Possess a current, valid certificate of eligibility pursuant to
29 Section 12071.

30 (3) Maintain with the department a signed declaration
31 enumerating the applicant's statutory exemptions from licensing
32 requirements of Section 12070. Any person furnishing a fictitious
33 name, knowingly furnishing any incorrect information, or
34 knowingly omitting any information for the declaration shall be
35 guilty of a misdemeanor.

36 (b) Commencing January 1, 2008, the department shall assess
37 an annual fee of one hundred fifteen dollars (\$115) to cover its
38 costs of maintaining the centralized list of exempted federal
39 firearms licensees prescribed by subdivision (a), conducting
40 inspections in accordance with this section, and for the cost of

maintaining the firearm shipment verification number system described in subdivision (f) of Section 12072. A person who is not licensed pursuant to Section 12071, who has been issued a permit pursuant to Section 12095, 12287, 12230, or 12305, and who is placed on the centralized list of exempted federal firearms licensees shall not be charged the fee. The department may increase the fee at a rate not to exceed the increase in the California Consumer Price Index as compiled and reported by the Department of Industrial Relations. The fees collected shall be deposited in the Dealers' Record of Sale Special Account.

(c) (1) Any person licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code as a dealer, importer, or manufacturer of firearms whose licensed premises are within this state shall not import or receive firearms from any source unless listed on the centralized list of firearms dealers pursuant to Section 12071, or the centralized list of exempted federal firearms licensees pursuant to subdivision (a), or the centralized list of firearms manufacturers pursuant to subdivision (f) of Section 12086.

(2) A violation of this subdivision is a misdemeanor.

(d) (1) All persons on the centralized list of exempted federal firearms licensees prescribed by subdivision (a) shall record and keep on file for three years, the verification number that shall accompany firearms received from other federal firearms licensees pursuant to subdivision (f) of Section 12072.

(2) A violation of this subdivision is cause for immediate removal from the centralized list.

(e) Information compiled from the list described in subdivision (a) shall be made available for the following purposes:

(1) Requests from local, state, and federal law enforcement agencies and the duly constituted city, county, and city and county licensing authorities.

(2) When the information is requested by a person licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code for determining the validity of the license for firearm shipments.

(f) The department may conduct onsite inspections at the business premises of a person on the centralized list described in subdivision (a) to determine compliance with firearms laws pursuant to Article 4 (commencing with Section 12070) of Chapter

1 1 of Title 2 of Part 4 of the Penal Code. The department shall work
2 in consultation with the Bureau of Alcohol, Tobacco, Firearms,
3 and Explosives to ensure that licensees are not subject to
4 duplicative inspections. During the inspection the following firearm
5 records shall be made available for review:

6 (1) Federal records referred to in subdivision (a) of Section
7 478.125 of Title 27 of the Code of Federal Regulations and the
8 bound book containing the same information referred to in Section
9 478.124a and subdivision (e) of Section 478.125 of Title 27 of the
10 Code of Federal Regulations.

11 (2) Verification numbers issued pursuant to subdivision (f) of
12 Section 12072.

13 (3) Any other records requested by the department to determine
14 compliance with this article.

15 (g) The department may remove from the centralized list
16 described in subdivision (a), any person who violates this article.

17 (h) The department may adopt regulations as necessary to carry
18 out the provisions of this section, subdivision (f) of Section 12072,
19 and Section 12071. The department shall work in consultation with
20 the Bureau of Alcohol, Tobacco, Firearms, and Explosives to
21 ensure that state regulations are not duplicative of federal
22 regulations.

23 *SEC. 5. Section 3.5 of this bill incorporates amendments to*
24 *Section 12078 of the Penal Code proposed by both this bill and*
25 *SB 41. It shall only become operative if (1) both bills are enacted*
26 *and become effective on or before January 1, 2010, (2) each bill*
27 *amends Section 12078 of the Penal Code, and (3) this bill is*
28 *enacted after SB 41, in which case Section 3 of this bill shall not*
29 *become operative.*